

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA  
NORTHERN DIVISION

MICHAL RUTH MITCHELL,	)	
	)	
Plaintiff,	)	
	)	
v.	)	CASE NO. 2:16-CV-666-WKW
	)	
STATE OF ALABAMA	)	
DEPARTMENT OF LABOR and	)	
CHARLES TIMOTHY DELAMAR,	)	
	)	
Defendants.	)	

**ORDER**

On June 14, 2017, the Magistrate Judge filed a Recommendation. (Doc. # 10.) On June 26, 2017, Plaintiff Michal Ruth Mitchell filed objections. (Doc. # 12.) The court has conducted an independent and *de novo* review of those portions of the Recommendation to which objection is made. *See* 28 U.S.C. § 636(b).

The Magistrate Judge recommended that Defendant Charles Timothy Delamar be dismissed from this Title VII employment discrimination and retaliation action because, in his individual capacity, he is not Plaintiff's "employer" within the meaning of Title VII, and because claims against him in his official capacity are duplicative of claims against Defendant State of Alabama Department of Labor.

Plaintiff's objections are without merit. Plaintiff contends that she alleged sufficient facts in her original complaint to state a claim against Defendant Delamar, or alternatively, that she should be allowed to amend her complaint (either now<sup>1</sup> or after a period of discovery) to state a claim against Defendant Delamar. However, Plaintiff provides no argument as to what facts in her complaint or proposed amended complaint – or what potential additional facts might be uncovered in discovery – would overcome the pleading defects pointed out by the Magistrate Judge. Plaintiff's argument that Defendant Delamar is not entitled to qualified immunity is inapposite because the Magistrate Judge did not rely on qualified immunity as a grounds for recommending dismissal.

Accordingly, it is ORDERED as follows:

1. Plaintiff's objection (Doc. # 12) is OVERRULED.
2. The Recommendation (Doc. # 10) is ADOPTED.
3. Defendant Delamar's motion to dismiss (Doc. # 7) is GRANTED.
4. Plaintiff's Title VII claims against Defendant Charles Timothy Delamar are DISMISSED with prejudice.
5. There being no other claims currently pending against Defendant Charles Timothy Delamar, Defendant Charles Timothy Delamar is DISMISSED from this action.

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<sup>1</sup> On June 23, 2017, Plaintiff filed a motion to amend her complaint.

6. This case is REFERRED back to the Magistrate Judge for further proceedings.

DONE this 2nd day of August, 2017.

/s/ W. Keith Watkins  
CHIEF UNITED STATES DISTRICT JUDGE